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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 ALAN SCOTT ANDRE,

11 Petitioner,

12 v.

13 DOUG WADDINGTON,

14 Respondent.

CASE NO. CV-06-503-JCC

ORDER

15 This matter comes before the Court on the Report & Recommendation (“R&R”) of the
16 Honorable Mary Alice Theiler, United States Magistrate Judge (Dkt. No. 26), Petitioner’s Objection to
17 the R&R (Dkt. No. 27), and Respondent’s Response to Petitioner’s Objection (Dkt. No. 28). After
18 reviewing the parties’ submissions and the remaining record, the Court adopts the R&R.

19 **I. ANALYSIS**

20 In his Objection to the R&R, Petitioner takes issue with Judge Theiler’s analysis of his juror
21 misconduct and *Miranda* rights claims. (Dkt. No. 27 at 1–3.) Petitioner introduces no new evidence or
22 argument in his Objection, and the Court adopts the R&R’s analysis and conclusions as to these claims.

23 Judge Theiler concluded that because they were procedurally barred by Washington Revised Code
24 section 10.73.090, five of Petitioner’s claims must be dismissed with prejudice. (R&R at 9–11 (Dkt. No.
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26 ORDER – 1

1 26.) Petitioner requests that those claims be dismissed without prejudice so that he may pursue them in
2 state court. (Pet.'s Obj. to R&R at 4 (Dkt. No. 27).) Washington Revised Code section 10.73.090 bars
3 Petitioner from pursing these claims in state court, and the Court must dismiss habeas claims with
4 prejudice when they are procedurally barred. *See Reed v. Ross*, 468 U.S. 1, 9 (1984); *Franklin v.*
5 *Johnson*, 290 F.3d 1223, 1231 (9th Cir. 2002).

6 **II. CONCLUSION**

7 The Court ADOPTS the R&R. Petitioner's habeas petition and this action are DISMISSED, with
8 prejudice. The Clerk is directed to send copies of this Order to Petitioner, to counsel for Respondent, and
9 to Judge Theiler.

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11 SO ORDERED this 30th day of May, 2007.

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14 John C. Coughenour
15 United States District Judge
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